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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951.

No. 231

ANNA DESPER, ADMINISTRATRIX OF THE ESTATE OF THOMAS J. DESPER, JR., DECEASED,
Petitioner,

VS.

STARVED ROCK FERRY COMPANY, A CORPORATION,
Respondent.

RESPONDENT'S RESPONSE TO PETITION FOR REHEARING.

CHARLES T. SHANNER,
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Attorneys for Respondent.

THOMAS C. ANGERSTEIN,
GEORGE W. ANGERSTEIN,
Of Counsel.

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To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States:

In response to petitioner's PETITION FOR REHEARING, respondent begs leave to invite the Court's attention to the fact that in such PETITION there are assigned no heretofore judicially recognized valid reasons or points for its allowance.

Petitioner has failed to set forth in her PETITION any one or more of the conventional grounds customarily associated with petitions for rehearing unless it can be

said that her statement "*that the heavy burden of work imposed upon this Court has prevented a majority of the Justices from giving adequate consideration to this case*" may be so regarded. Even a cursory reading of the opinion conclusively demonstrates that the majority of the Court were fully cognizant of the essential facts of this case and thoroughly informed as to the applicable legal precedents, propositions, and principles.

As clearly illustrating petitioner's lack of recognition of either the purpose of the reasonably permissible scope of a petition for rehearing, it will be noted that in her PETITION FOR REHEARING she has failed to state (1) any points overlooked or misapprehended by this Honorable Court; (2) to state any essential fact or facts which were overlooked or misapprehended by the Court; (3) that the Court overlooked any relevant authorities cited by either party; (4) that the Court's decision is contrary to or at variance with the decisions in any cases decided by it or other courts, or (5) that any new propositions of law have come to petitioner's attention since the briefs were filed and argument had in the instant case, which she had no opportunity to present previous to this Petition.

Actually, petitioner's PETITION FOR REHEARING constitutes merely a re-argument of her case and presents the same arguments in somewhat different form as previously made by petitioner in her briefs heretofore filed in this cause.

It is respectfully submitted—and respondent is unable to find any authority which holds to the contrary—that it is not the purpose of a PETITION FOR REHEARING to permit a second presentation of arguments which properly should have been and which in the instant case actually were presented in the party's brief and were before the

Court when the cause was under consideration. (Cyclopedia Federal Procedure, sec. 6336.)

It is further respectfully submitted that petitioner's failure to specify any valid grounds for a rehearing is in no sense attributable to lack of diligence or effort on the part of her eminent counsel but instead is due to their inability to find in the Court's opinion any omission of essential facts, any overlooking or misapplication of relevant authorities, or any other grounds upon which a petition for rehearing might properly be predicated.

In this connection, it is respectfully submitted that it is now improper for either petitioner or respondent to reargue questions which the former's counsel stated upon oral argument of the cause before this Court had been thoroughly covered in (1) her PETITION FOR CERTIORARI, (2) the ANSWER thereto, and (3) the REPLY TO THE ANSWER.

The PETITION FOR REHEARING should be denied.

Respectfully submitted,

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Attorneys for Respondent.

THOMAS C. ANGERSTEIN,
GEORGE W. ANGERSTEIN,
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